

Millennium Challenge Corporation

§ 1304.9

date. The FOIA Officer shall also notify the requester that the requested records will be made available.

(e) *Notice of lawsuit.* If the requester files a lawsuit seeking to compel disclosure of confidential commercial information, the FOIA Officer shall promptly notify the submitter of this action. If a submitter files a lawsuit seeking to prevent disclosure of confidential commercial information, the FOIA Officer shall notify the requester.

(f) *Exceptions to the notice requirements under this section.* The notice requirements under paragraphs (a) and (b) of this section shall not apply if:

(1) The FOIA Officer determines that the information should not be disclosed pursuant to Exemption 4 and/or any other exemption of the FOIA;

(2) The information lawfully has been published or officially made available to the public;

(3) Disclosure of the information is required by law (other than the FOIA);

(4) The information requested is not designated by the submitter as exempt from disclosure in accordance with this part, when the submitter had the opportunity to do so at the time of submission of the information or within a reasonable time thereafter, unless the agency has substantial reason to believe that disclosure of the information would result in competitive harm; or

(5) The designation made by the submitter in accordance with this part appears obviously frivolous. When the FOIA Officer determines that a submitter was frivolous in designating information as confidential, the FOIA Officer must provide the submitter with written notice of any final administrative disclosure date, but no opportunity to object to disclosure will be offered.

§ 1304.8 Appeals.

(a) *Right of appeal.* The requester has the right to appeal to the FOIA Appeals Officer any adverse determination.

(b) *Notice of appeal*—(1) *Timing for appeal.* An appeal must be received no later than thirty (30) working days after notification of denial of access to records or after the time limit for response by the FOIA Officer has expired. Prior to submitting an appeal any out-

standing fees related to FOIA requests must be paid in full.

(2) *Method of appeal.* An appeal shall be initiated by filing a written notice of appeal. The notice shall be accompanied by copies of the original request and initial denial of access to records. To expedite the appellate process and give the requester an opportunity to present his or her arguments, the notice should contain a brief statement of the reasons why the requester believes the initial denial of access to records was in error. The appeal shall be addressed to the Millennium Challenge Corporation, Attn: FOIA Appeals Officer, 875 Fifteenth Street, NW., Washington, DC 20005.

(c) *Final agency determinations.* The FOIA Appeals Officer shall issue a final written determination, stating the basis for his or her decision, within twenty (20) working days after receipt of a notice of appeal. If the determination is to provide access to the requested records, the FOIA Officer shall make those records immediately available to the requester. If the determination upholds the denial of access to the requested records, the FOIA Appeals Officer shall notify the requester of the determination.

§ 1304.9 Fees.

(a) *General.* Fees pursuant to the FOIA shall be assessed according to the schedule contained in paragraph (b) of this section for services rendered by MCC in response to requests for records under this part. MCC's fee practices are governed by the FOIA and by the Office of Management and Budget's Uniform Freedom of Information Act Fee Schedule and Guidelines. All fees shall be charged to the requester, except where the charging of fees is limited under paragraph (d) of this section or where a waiver or reduction of fees is granted under paragraph (c) of this section. Payment of fees should be in U.S. Dollars in the form of either a check or bank draft drawn on a bank in the United States or a money order. Payment should be made payable to the Treasury of the United States and mailed to the Millennium Challenge Corporation, 875 Fifteenth Street, NW., Washington, DC 20005.